

IN THE SUPREME COURT OF THE STATE OF DELAWARE

DARNELL HARRIS,	§	
	§	No. 693, 2009
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for New Castle County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Cr. ID No. 9407002626
Appellee.	§	

Submitted: December 10, 2009

Decided: December 14, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **RIDGELY**, Justices.

**ORDER**

This 14<sup>th</sup> day of December 2009, upon consideration of the appellant's response to the notice to show cause, it appears to the Court that:

(1) On November 30, 2009, the appellant, Darnell Harris, filed a notice of appeal from a Superior Court commissioner's November 13, 2009 report recommending that Harris' motion for postconviction relief should be denied. On December 1, 2009, the Clerk issued a notice directing that Harris show cause why the appeal should not be dismissed pursuant to

Supreme Court Rule 29(b) for this Court's lack of jurisdiction to consider an appeal directly from a commissioner's report and recommendation.<sup>1</sup>

(2) In his response to the notice to show cause, Harris maintains that his appeal was timely filed. He does not, however, address the jurisdictional issue raised in the notice to show cause.

(3) The Court's appellate jurisdiction is limited to decisions issued by judges of a court.<sup>2</sup> The Court does not have the authority to hear an appeal directly from a report and recommendation of a Superior Court commissioner without intermediate review by a Superior Court judge.<sup>3</sup>

NOW, THEREFORE, IT IS ORDERED, pursuant to Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Myron T. Steele  
Chief Justice

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<sup>1</sup> *Johnson v. State*, 884 A.2d 475, 479 (Del. 2005).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* See also *Cleveland v. State*, 2009 WL 1579000 (Del. Supr.) (dismissing appeal from commissioner's order as an "impermissible interlocutory appeal in a criminal case"); *Wilmer v. State*, 2009 WL 696400 (Del. Supr.) (dismissing appeal from commissioner's report recommending that appellant's motion for postconviction relief should be denied).